

James E. Mercante (JM 4231)  
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Attorneys for Defendant  
ACE AMERICAN INSURANCE  
COMPANY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Civil No. 07 cv 2761 (RPP)

MARK DeGEORGE

Plaintiff,

**AFFIDAVIT OF  
JAMES E. MERCANTE**

-against-

ACE AMERICAN INSURANCE COMPANY,  
  
Defendant.

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STATE OF NEW YORK     )  
                                      )ss.:  
COUNTY OF NEW YORK    )

James E. Mercante, being duly sworn, deposes and says:

1. I am a member of the law firm of RUBIN, FIORELLA & FRIEDMAN LLP, attorneys for defendant, ACE AMERICAN INSURANCE COMPANY ("ACE"), and I am fully familiar with the facts of this matter.
2. The following exhibits are submitted in support of ACE's motion for summary judgment:

**LIST OF EXHIBITS**

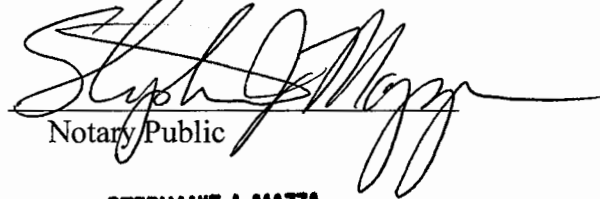
**Exhibit 1** - Excerpts from the transcript of plaintiff Mark DeGeorge's Examination Under Oath, dated March 21, 2006.

**Exhibit 2** - Marine insurance policy issued by ACE to DeGeorge for the period June 23, 2005 to June 23, 2006.

**Exhibit 3** - ACE's Declination of Coverage Letter, dated May 24, 2006.

  
JAMES E. MERCANTE

Sworn to before me this  
13 day of October, 2007.

  
Notary Public

**STEPHANIE J. MAZZA**  
Notary Public, State of New York  
No. 01MA6139666  
Qualified in Richmond County  
Commission Expires January 17, 2010 